

TOWN OF KITTERY, MAINE
PLANNING BOARD MEETING
Council Chambers

APPROVED
December 12, 2013

Meeting called to order at 6:03 p.m.

Board Members Present: Tom Emerson, Susan Tuveson, Karen Kalmar, Susan Tuveson, Deborah Driscoll Davis

Members absent: Bob Melanson, Ann Grinnell, Mark Alesse

Staff: Gerry Mylroie, Planner; Chris DiMatteo, Assistant Planner

Mr. Emerson noted there is a quorum to conduct business.

Pledge of Allegiance

Minutes:

Ms. Tuveson moved to approve the minutes of November 14, 2013 as corrected

Ms. Kalmar seconded

Unanimous by all members present

Public Comment:

- Richard Sparkowich, 22B Old Farm Road, Operation Blessing Limited Partnership, requested a clarification of the five-year period for subdivisions. The Beatrice Way Subdivision was approved in 2008, greater than five years ago, and does not understand why a right-of-way cannot be reviewed by the Planning Board at this time. The ROW is only to one lot. He noted he has sent emails to the Chairman and requests that the emails be shared with Board members so they understand what has transpired over the years. He does not understand why he is now being required to develop a cluster plan, when all he wants to do is carve out one lot after a five year wait after subdivision approval.

Mr. Emerson stated he does have the email, but has not had the opportunity to meet and discuss with staff, but will meet with staff prior to the next meeting. Mr. Sparkowich also stated a Council member suggested it may be time for the Council and Planning Board (or selected members) to sit down to discuss this issue and past activities regarding Operation Blessing projects.

- Ken Markley, Easterly Surveying, presented plans illustrating GIS and zoning maps, and explained not all areas in Kittery are well surveyed, shoreland areas may not be accurately shown, and the zoning shown on GIS may be off by 200-300 feet because the update is not current, and requested the Board and staff look into this issue, and suggested developing a method to identify those properties that are accurately represented.

There was no further public comment.

ITEM 1 – Stone Meadow Cluster Subdivision. Owner Acadia Trust, N.A, and applicant Harbor Street LP, a 27-lot subdivision on a 59.8 acres parcel off Brave Boat Harbor Rd., Tax Map 69, Lot 6, Residential-Rural, Shoreland, and Resource Protection Overlay zones. Agent is Jeff Clifford, Altus Engineering, Inc. Mr. Mylroie stated the applicant has withdrawn their application as the property has been purchased by the Kittery Land Trust.

NEW BUSINESS

ITEM 2 – Estes Bulk Propane Storage/U.S. Route 1 –Preliminary Plan Completeness Review.

Action: accept or deny preliminary plan application, schedule site walk and/or public hearing. Owner M&T Realty, Applicant Estes Oil & Propane Company, propose a 60,000 gallon bulk propane storage facility at their property south of 506 U.S. Route 1, Tax Map 67, Lot 4, Mixed Use, Residential Rural and Shoreland Overlay zones. Agent is Edward Brake, ATTAR Engineering.

Ed Brake, ATTAR Engineering, introduced Mike Estes, owner, and Jody Ameden, providing the propane safety study. Mr. Brake summarized the proposal for a 60,000 gallon propane storage facility, a 1,300 foot long access road, and a wetland fill of approximately 12,000 sf. He noted the DEP NRPA permit has been received.

Jody Ameden explained she will be providing a Fire Safety Analysis (FSA) which is required for any propane storage facility exceeding 4,000 gallons. The FSA format was developed by the National Propane Gas Association and the National Fire Protection Agency and is followed nationally, to assess site safety. She met with Chief O'Brien regarding fire protection at the site and his input is included in the analysis. The analysis will be provided. The Chief requested that an 8" water main be provided, and the applicant will do so. She noted the safety controls, including safety devices on the trucks and at the tanks; emergency safety valves; internal safety valves to eliminate discharge; relief valves on top of the tanks. The area will be surrounded by 6-foot fencing, as required by the state. Mr. Mylroie asked about the durability of the tanks, should there be a gunshot. Ms. Ameden stated the steel is 5/8" thick and rounded, and was told because the tanks are rounded a bullet would glance off. She could find no documentation of penetration. Mr. DiMatteo suggested Ms. Ameden attend the public hearing when more substantive review will take place.

Mr. Emerson summarized remaining issues to address include: potential vernal pools; wildlife habitat; additional development on the parcel; floodplain re-mapping; and Conservation Commission issues. Ms. Kalmar asked that the overlay zones on the parcel be verified. Mr. Mylroie noted the natural resource overlays are guides that are more accurately identified through ground survey and analysis by soil or wildlife scientists during specific site review. Discussion followed as to the accuracy of the GIS overlays.

Ms. Kalmar moved to accept the plan

Ms. Tuveson seconded

Motion carried unanimously by all members present

Ms. Kalmar moved to schedule a site walk and public hearing

Ms. Driscoll seconded

Motion carried unanimously by all members present

The site walk was scheduled for Tuesday, January 7 at 11:00 p.m.

ITEM 3 – Watts Cluster Development – Sketch Plan Review

Action: review application and schedule a site walk. Owner and Applicant Jonathon & Kathleen Watts propose a 4-lot cluster subdivision at 143 Brave Boat Harbor Road, Tax Map 63, Lot 19, Residential Rural and Shoreland Overlay zones. Agent is Ken Markley, Easterly Surveying, Inc.

Ken Markley summarized the application and site conditions: 200-foot long road; 11.75 acre parcel; 3 new lots, retaining existing lot and home; homes would not be visible from Brave Boat Harbor Road; primarily wooded; test pits have been identified to support the proposed dwellings; shoreland and resource protection zones; DEP protected stream on site; waivers will be requested; wetland in flood zone, but this is questionable; wetlands have been flagged and a high intensity soil survey conducted. In determining net residential area, they removed the wetlands and half the upland area. Following the soil suitability meeting, a revised calculation will be submitted. Discussion followed regarding road width and emergency turnaround for fire trucks.

Ms. Tuveson moved to accept the sketch plan

Ms. Kalmar seconded

Ms. Driscoll asked about the location of the open space from the housing area. Mr. DiMatteo stated an abutter submitted a letter of concern regarding buffers. Ms. Kalmar believes this property has zero net residential acreage based on the existing code and is not comfortable with this project. The way the code is now written, the proposal cannot be supported. Mr. DiMatteo stated the Board is not bound by the acceptance of the sketch plan. Ms. Tuveson stated she feels that accepting the sketch plan is providing the applicant with an acceptance of the concept before them. Mr. DiMatteo stated this would be true at the preliminary plan stage. Ms. Kalmar stated the application of the existing code establishes the fundamental basis for the net residential density, and this cannot be waived. Mr. Markley stated the existing code reference to the discontinued guide is a disservice to the public and should be amended in fairness to property owners. Ms. Tuveson agreed. Ms. Driscoll felt in fairness to the applicant, the Board should not accept something now that is contrary to the code with an amendment pending in the future.

Motion failed, with 0 in favor; 4 against; 0 abstaining

ITEM 4 – Board Member Items / Discussion

A. Election of Officers;

Ms. Driscoll moved to postpone election of officers to January 9, 2014 when a full Board is present

Ms. Kalmar seconded

Motion carried by all members present

B. Board By-Laws; Ms. Tuveson suggested all 'shall's should be returned to the document; general discussion followed regarding meeting dates, method of contact. Ms. Tuveson will create a draft of the by-laws for Board review at the January meeting.

C. Review punch list update from 11/14/13: Members discussed:

- Abutters notices;
- Amendment notices;
- Chairman will meet with Staff to discuss Highpointe Circle issue
- Soil Suitability amendment will be included on 1/9/14 agenda.
- Add: Structure replacement requiring excavations in the shoreland zone
- Consider: Continuation of use limitation

D. Set Time for Board Retreat/Workshop: Rescheduled to January 24 at Community Center. To be confirmed with absent Board members.

E. Comprehensive Update Committee Report – Ms. Driscoll noted the new format will make the new report much easier to use and update in the future, without negatively impacting the existing plan.

F. Shore and Harbor Plan Report – Ms. Driscoll reported on the Public Works Department meeting. Topics discussed included the BIG project, wave attenuation, Traip boat launch, Rogers Park, John Paul Jones Park, shoreland tree cutting ordinance, beach cleanup, non-point source pollution, Navy Yard activities, working waterfront, clam flats, public access to the water, and a Foreside TIF. Mr. Mylroie state a draft of the plan will be prepared by Wright-Pierce.

G. Mr. Emerson mentioned need for pedestrian-bike paths to the bridge along JPJ Park.

ITEM 5 – Town Planner Items:

A. Foreside Listening Session on January 6 at 7:30 with Council members.

B. Sustain Southern Maine initiative in the area of the water district parcel; Kittery is a project community highlighted on the www.sustainsouthernmaine.org site.

C. Sarah Long Bridge Preliminary Plan; Findings and Recommendations: Strong attendance at MDOT meeting. Mr. Emerson stated landscaping, trees, etc. around the landing is of concern to the Board, as well as pedestrian access. Ms. Driscoll suggested working with Portsmouth to develop a joint

approach for bridge sidewalks and connections. Discussion followed regarding bridge design, access and lighting. Mr. Mylroie noted grant funds should be secured to provide for public relations during closure, plaques and landscaping. Mr. DiMatteo suggested a public charette or a design competition for the proposed park.

D. Memorial Circle Streetscape Improvements: Mr. Mylroie presented a ‘work in progress’ plan to the illustrating proposed sidewalks, guard rails, fencing and street trees. Members viewed and discussed the various plans.

E. Quality Improvement Overlay Zone

Ms. Tuveson moved to adjourn

Ms. Driscoll seconded

Motion carried by all members present

The Kittery Planning Board meeting of December 12, 2013 adjourned at 9:26 p.m.

Submitted by Jan Fisk, Recorder, December 31, 2013